

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL E. KAUFFMAN,

Plaintiff,

v.

Case No. 05-70521
Honorable Patrick J. Duggan

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on January 19, 2007.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On February 9, 2005, Plaintiff filed this lawsuit challenging a final decision of the Commissioner regarding Plaintiff's application for Social Security Disability Insurance Benefits. The parties subsequently filed cross-motions for summary judgment, which this Court referred to Magistrate Judge Virginia M. Morgan.

On December 28, 2006, Magistrate Judge Morgan filed her Report and Recommendation (R&R) recommending that this Court grant in part and deny in part both motions and remand the matter to the Commissioner for further proceedings

consistent with the R&R. At the conclusion of the R&R, Magistrate Judge Morgan advises the parties that they may object to and seek review of the R&R within ten days of service upon them. She further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” R&R at 21 (*citing Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); and *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981)). Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Morgan, except her recommendation that this Court grant in part and deny in part the Commissioner’s motion for summary judgment. In her motion for summary judgment, the Commissioner simply argues that there was substantial evidence in the administrative record to support her final decision. As Magistrate Judge Morgan concludes that she cannot find substantial evidence supporting the Commissioner’s decision due to the errors of the Administrative Law Judge, this Court believes the Commissioner’s motion simply should be denied. Accordingly,

IT IS ORDERED, that Plaintiff’s motion for summary judgment is **GRANTED IN PART AND DENIED IN PART**;

IT IS FURTHER ORDERED, that Defendant’s motion for summary judgment is **DENIED**;

IT IS FURTHER ORDERED, that this matter is **REMANDED** to the Commissioner pursuant to sentence four of § 405(g) for further proceedings consistent with Magistrate Judge Morgan's R&R.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Eva I. Guerra, Esq.
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Magistrate Judge Virginia M. Morgan